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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,949	09/29/2003	Edward Michael Silver	BS030552	3781
38516 7590 12/18/2007 SCOTT P. ZIMMERMAN, PLLC PO BOX 3822 CARY, NC 27519			EXAMINER RAMAKRISHNAIAH, MELUR	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 12/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/673,949

Applicant(s)

SILVER, EDWARD MICHAEL

Examiner

Melur Ramakrishnaiah

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

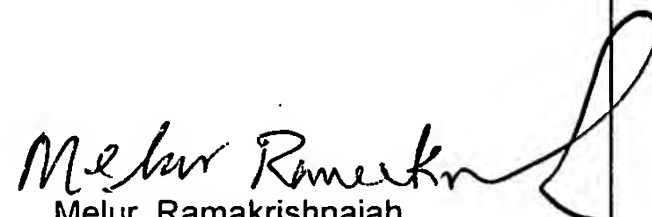
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the enclosed Explanation.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Melur Ramakrishnaiah
Primary Examiner
Art Unit: 2614

Response to Applicants Arguments In response To Final Rejection

Rejection of Claims 1, 3-5, 7-8, 9, 13, 15-17, 18 under 35 U.S.C. 103(a) as being obvious over Kredo (US PAT: 6,714,637, filed 10-19-1999) in view of O'Brien (US PAT: 4,893,329): Regarding rejection of the claims, Applicant makes various arguments alleging the references cannot be combined. For example, he argues that "O'Brien device for deferring incoming calls would not allow for Kredo's customized call waiting indicators. The proposed combination of Kredo with O'Brien, then would never permit "receiving first incoming communication" and "producing a first initial alert of the first incoming communication" as the independent claims recite. The proposed combination of Kredo with O'Brien would also never permit "receiving a second incoming communication during the period of time of suppression" and "producing a second initial alert of the second incoming communication" as the independent claims recite". Regarding this, as set forth in the final office action: Kredo discloses a system, comprising: means (125, fig. 1) for receiving a first incoming communication, means for producing a first initial alert (implicit as the caller has received the first incoming call 125) for the first incoming communication (fig. 3, col. 3 lines 42-49), means (125, fig. 3) for receiving a second incoming communication during the period of time of suppression (note: this is implied as the user is engaged in first call), and means (130, fig. 3) for producing a second initial alert of the second incoming communication (such as call initiated by caller 90 in fig. 3, col. 3, line 51 – col. 4, line 17).

Kredo differs from claim 1 in that he does not specifically teach: means for suppressing subsequent alerts of the first incoming communication for a period of time.

However, O'Brien discloses call deferral system for telephones which teaches: user can program ring suppression for incoming calls for desired period of time (col. 2 lines 3-12).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Kredo's system to provide for the following: means for suppressing subsequent alerts of the first incoming communication for a period of time as this arrangement would provide convenient means to program his telephone system to suppress ringing of the telephone to suite his requirements as taught by O'Brien.

In light of this, it is clear that applicant is arguing against individual references to make the case that references cannot be combined although they clearly teach applicants claims limitation as set forth in the in the final office action. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In light of this, rejection of claims is maintained as set forth in the final office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Melur Ramakrishnaiah
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Art Unit 2614